

House Study Bill 738 - Introduced

HOUSE FILE _____

BY (PROPOSED COMMITTEE ON
WAYS AND MEANS BILL BY
CHAIRPERSON SHOMSHOR)

A BILL FOR

1 An Act relating to taxation, including the administration and
2 review of certain economic development programs and certain
3 tax incentive programs and the reenactment of the estate
4 tax and including effective date and retroactive and other
5 applicability provisions.
6 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF IOWA:

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DIVISION I
REVIEW AND REAUTHORIZATION OF PROGRAMS
Section 1. INTENT AND PURPOSE.

1. It is the intent of the general assembly that each tax credit, withholding credit, and revenue division program should effectuate the purposes for which it was enacted and that the cost of such programs should be included more readily in the yearly budgeting process.
2. The purposes of this Act are to provide for the regular review of all tax credit, withholding credit, and revenue division programs in order to facilitate the reauthorization of successful programs and to do so at a cost that can be accommodated by the state's annual budget.

DIVISION II
LEGISLATIVE TAX EXPENDITURE COMMITTEE

Sec. 2. Section 2.45, Code Supplement 2009, is amended by adding the following new subsection:

NEW SUBSECTION. 5. *a.* The legislative tax expenditure committee which shall be composed of ten members of the general assembly, consisting of five members from each house, to be appointed by the legislative council.

b. The legislative tax expenditure committee shall have the powers and duties described in section 2.48.

Sec. 3. NEW SECTION. 2.48 **Legislative tax expenditure committee — review of tax incentive programs.**

1. *Statement of principles of sound tax policy.* The legislative tax expenditure committee shall do all of the following:

a. Issue a statement of principles of sound tax policy.

(1) In issuing the statement, the committee may consult with the department of revenue, the legislative services agency, and independent experts who have demonstrated expertise in matters of tax policy, fiscal policy, and public finance such as that typically found among tax attorneys, certified public accountants, and faculty members at institutions of higher

1 learning in the state.

2 (2) The statement shall reflect to the extent practicable
3 the best practices of state and local taxation as recognized
4 by experts in the fields of economics, fiscal policy, law,
5 accounting, and public finance.

6 (3) The statement shall address issues of equity,
7 simplicity, competitiveness, public purpose, and adequacy as
8 those issues pertain to taxation in Iowa.

9 b. Evaluate any tax expenditure available under Iowa law
10 and assess its conformance with the statement of principles of
11 sound tax policy issued pursuant to paragraph "a". For purposes
12 of this section, "*tax expenditure*" means an exclusion from
13 the operation or collection of a tax imposed in this state.
14 Tax expenditures include tax credits, exemptions, deductions,
15 and rebates. Tax expenditures also include sales tax refunds
16 issued pursuant to section 423.3 or section 423.4.

17 c. Establish and maintain a system for making available
18 to the public information about the amount and effectiveness
19 of tax expenditures, and the extent to which tax expenditures
20 comply with the statement of principles of sound tax policy.

21 2. *Review of tax expenditures — budget estimates.* The
22 legislative tax expenditure committee shall do all of the
23 following:

24 a. Engage in the regular review of the state's tax
25 expenditures.

26 (1) In reviewing tax expenditures, the committee may review
27 any tax expenditure at any time, but shall at a minimum perform
28 the reviews described in subsection 3.

29 (2) For each tax expenditure reviewed, the committee shall
30 submit a report to the legislative council containing the
31 results of the review. The report shall contain a statement
32 of the policy goals of the tax expenditure and a return on
33 investment calculation for the tax expenditure. For purposes
34 of this subparagraph, "*return on investment calculation*"
35 means analyzing the cost to the state of providing the tax

1 expenditure, analyzing the benefits realized by the state from
2 providing the tax expenditure, and reaching a conclusion as to
3 whether the benefits of the tax expenditure are worth the cost
4 to the state of providing the tax expenditure.

5 (3) The report described in subparagraph (2) may include
6 recommendations for better aligning tax expenditures with the
7 principles of sound tax policy issued pursuant to subsection 1.

8 b. (1) Estimate for each fiscal year, in conjunction with
9 the legislative services agency and the department of revenue,
10 the cost of each individual tax expenditure and the total cost
11 of all tax expenditures, and by December 15 provide those
12 estimates to the governor for use in the preparation of the
13 budget message under section 8.22 and to the general assembly
14 to be used in the budget process.

15 (2) The estimates provided pursuant to subparagraph (1) may
16 include the committee's recommendations for the imposition of a
17 limitation on a specified tax expenditure, a limitation on the
18 total amount of tax expenditures, or any other recommendation
19 for a specific tax expenditure or the program under which the
20 tax expenditure is provided.

21 3. *Schedule of review of certain tax expenditures.* The
22 committee shall review the following tax expenditures and
23 incentives according to the following schedule:

24 a. In 2011:

25 (1) The high quality jobs program under chapter 15,
26 subchapter II, part 13.

27 (2) The tax credits for increasing research activities
28 available under sections 15.335, 15A.9, 422.10, and 422.33.

29 (3) Property tax revenue divisions for urban renewal areas
30 under section 403.19.

31 (4) Funding of urban renewal projects with increased local
32 sales and services tax revenues under section 423B.10.

33 b. In 2012:

34 (1) The targeted jobs withholding credits available under
35 section 403.19A.

1 (2) School tuition organization tax credits under sections
2 422.11S and 422.33.

3 (3) Tuition and textbook tax credits under section 422.12.

4 *c.* In 2013: the child and dependent care and early
5 childhood development tax credits under section 422.12C.

6 *d.* In 2014:

7 (1) Tax credits for investments in qualifying businesses
8 and community-based seed capital funds under chapter 15E,
9 division V.

10 (2) Historic preservation and cultural and entertainment
11 district tax credits under chapter 404A.

12 (3) Wind energy production tax credits under chapter 476B.

13 (4) Renewable energy tax credits under chapter 476C.

14 *e.* In 2015:

15 (1) The agricultural assets transfer tax credit under
16 section 175.37.

17 (2) The claim of right tax credit under section 422.5.

18 (3) The reduction in allocating income to Iowa by S
19 corporation shareholders under section 422.8.

20 (4) The minimum tax credit under sections 422.11B, 422.33,
21 and 422.60.

22 (5) The assistive device corporate tax credit under section
23 422.33.

24 (6) The charitable conservation contribution tax credit
25 under sections 422.11W and 422.33.

26 (7) The motor vehicle fuel tax credit under section 422.110.

27 4. A tax expenditure or incentive reviewed pursuant to
28 subsection 3 shall be reviewed again not more than five years
29 after the tax expenditure or incentive was most recently
30 reviewed.

31 DIVISION III

32 MAXIMUM AGGREGATE TAX CREDIT LIMIT FOR CERTAIN ECONOMIC
33 DEVELOPMENT PROGRAMS

34 Sec. 4. Section 15.119, subsection 1, Code Supplement 2009,
35 is amended by striking the subsection and inserting in lieu

1 thereof the following:

2 1. *a.* Notwithstanding any provision to the contrary in any
3 of the programs listed in subsection 2, the department, except
4 as provided in paragraph "*b*", shall not authorize for any one
5 fiscal year an amount of tax credits for the programs specified
6 in subsection 2 that is in excess of one hundred twenty million
7 dollars.

8 *b.* The department may authorize an amount of tax credits
9 during a fiscal year that is in excess of the amount specified
10 in paragraph "*a*", but the amount of such excess shall be counted
11 against the total amount of tax credits that may be authorized
12 for the next fiscal year.

13 DIVISION IV

14 FILM PROGRAM SUSPENSION

15 Sec. 5. Section 15.393, Code Supplement 2009, is amended by
16 adding the following new subsection:

17 NEW SUBSECTION. 5. The department shall not register a new
18 project pursuant to this section until July 1, 2012.

19 Sec. 6. EFFECTIVE UPON ENACTMENT. This division of this
20 Act, being deemed of immediate importance, takes effect upon
21 enactment.

22 DIVISION V

23 SUPPLEMENTAL RESEARCH ACTIVITIES CREDIT

24 Sec. 7. Section 15.335, Code Supplement 2009, is amended to
25 read as follows:

26 **15.335 Research activities credit.**

27 1. *a.* An eligible business may claim a corporate tax credit
28 for increasing research activities in this state during the
29 period the eligible business is participating in the program.

30 *b.* For purposes of this section, "*research activities*"
31 includes the development and deployment of innovative renewable
32 energy generation components manufactured or assembled in this
33 state. For purposes of this section, "*innovative renewable*
34 *energy generation components*" does not include a component
35 with more than two hundred megawatts of installed effective

1 nameplate capacity.

2 c. The tax credits for innovative renewable energy
3 generation components shall not exceed two million dollars.

4 2. a. (1) ~~The~~ In the case of an eligible business whose
5 gross revenues do not exceed twenty million dollars per year,
6 the credit equals the sum of the following:

7 (a) (1) ~~Six and one-half~~ Ten percent of the excess of
8 qualified research expenses during the tax year over the base
9 amount for the tax year based upon the state's apportioned
10 share of the qualifying expenditures for increasing research
11 activities.

12 (b) (2) ~~Six and one-half~~ Ten percent of the basic research
13 payments determined under section 41(e)(1)(A) of the Internal
14 Revenue Code during the tax year based upon the state's
15 apportioned share of the qualifying expenditures for increasing
16 research activities.

17 b. In the case of an eligible business whose gross revenues
18 exceed twenty million dollars per year, the credit equals the
19 sum of the following:

20 (1) Three percent of the excess of qualified research
21 expenses during the tax year over the base amount for the tax
22 year based upon the state's apportioned share of the qualifying
23 expenditures for increasing research activities.

24 (2) Three percent of the basic research payments determined
25 under section 41(e)(1)(A) of the Internal Revenue Code during
26 the tax year based upon the state's apportioned share of the
27 qualifying expenditures for increasing research activities.

28 ~~(2)~~ 3. The For purposes of subsection 2, the state's
29 apportioned share of the qualifying expenditures for increasing
30 research activities is a percent equal to the ratio of
31 qualified research expenditures in this state to total
32 qualified research expenditures.

33 ~~b.~~ 4. a. In lieu of the credit amount computed in
34 ~~paragraph "a", subparagraph (1)~~ subsection 2, an eligible
35 business may elect to compute the credit amount for qualified

1 research expenses incurred in this state in a manner consistent
2 with the alternative incremental credit described in section
3 41(c)(4) of the Internal Revenue Code. The taxpayer may make
4 this election regardless of the method used for the taxpayer's
5 federal income tax. The election made under this paragraph is
6 for the tax year and the taxpayer may use another or the same
7 method for any subsequent year.

8 ~~e.~~ b. For purposes of the alternate credit computation
9 method in paragraph ~~"b"~~ "a", the credit percentages applicable
10 to qualified research expenses described in clauses (i), (ii),
11 and (iii) of section 41(c)(4)(A) of the Internal Revenue Code
12 are one and sixty-five hundredths percent, two and twenty
13 hundredths percent, and two and seventy-five hundredths
14 percent, respectively.

15 ~~2.~~ 5. The credit allowed in this section is in addition
16 to the credit authorized in section 422.10 and section 422.33,
17 subsection 5. However, if the alternative credit computation
18 method is used in section 422.10 or section 422.33, subsection
19 5, the credit allowed in this section shall also be computed
20 using that method.

21 ~~3.~~ 6. If the eligible business is a partnership, S
22 corporation, limited liability company, or estate or trust
23 electing to have the income taxed directly to the individual,
24 an individual may claim the tax credit allowed. The amount
25 claimed by the individual shall be based upon the pro rata
26 share of the individual's earnings of the partnership, S
27 corporation, limited liability company, or estate or trust.

28 ~~4.~~ 7. *a.* For purposes of this section, *"base amount"*,
29 *"basic research payment"*, and *"qualified research expense"* mean
30 the same as defined for the federal credit for increasing
31 research activities under section 41 of the Internal Revenue
32 Code, except that for the alternative incremental credit such
33 amounts are for research conducted within this state.

34 *b.* For purposes of this section, *"Internal Revenue Code"*
35 means the Internal Revenue Code in effect on January 1, 2009.

1 5- 8. Any credit in excess of the tax liability for the
2 taxable year shall be refunded with interest computed under
3 section 422.25. In lieu of claiming a refund, a taxpayer may
4 elect to have the overpayment shown on its final, completed
5 return credited to the tax liability for the following year.

6 6- 9. The department of revenue shall by February 15
7 of each year issue an annual report to the general assembly
8 containing the total amount of all claims made by employers
9 under this section, and the portion of the claims issued as
10 refunds, for all claims processed during the previous calendar
11 year. The report shall contain the name of each claimant for
12 whom a tax credit in excess of five hundred thousand dollars
13 was issued and the amount of the credit received.

14 Sec. 8. RETROACTIVE APPLICABILITY. This division of this
15 Act applies retroactively to January 1, 2010, for tax years
16 beginning on or after the date.

17 DIVISION VI

18 MAXIMUM AMOUNT OF ACCELERATED CAREER EDUCATION JOB CREDITS

19 Sec. 9. Section 260G.4B, subsection 1, Code 2009, is amended
20 to read as follows:

21 1. The total amount of program job credits from all
22 employers which shall be allocated for all accelerated career
23 education programs in the state in any one fiscal year shall
24 not exceed ~~the sum of three million dollars in the fiscal~~
25 ~~year beginning July 1, 2000, three million dollars in the~~
26 ~~fiscal year beginning July 1, 2001, three million dollars~~
27 ~~in the fiscal year beginning July 1, 2002, four million~~
28 ~~dollars in the fiscal year beginning July 1, 2003, and six~~
29 ~~million dollars in the fiscal year beginning July 1, 2004,~~
30 ~~and every fiscal year thereafter~~ five million four hundred
31 thousand dollars. ~~Any increase in program job credits above~~
32 ~~the six-million-dollar limitation per fiscal year shall be~~
33 ~~developed, based on recommendations in a study conducted by~~
34 ~~the department of economic development, pursuant to this~~
35 ~~section, Code Supplement 2003, of the needs and performance of~~

1 ~~approved programs in the fiscal years beginning July 1, 2000,~~
 2 ~~and July 1, 2001.~~ A community college shall file a copy of
 3 each agreement with the department of economic development.
 4 The department shall maintain an annual record of the proposed
 5 program job credits under each agreement for each fiscal year.
 6 Upon receiving a copy of an agreement, the department shall
 7 allocate any available amount of program job credits to the
 8 community college according to the agreement sufficient for
 9 the fiscal year and for the term of the agreement. When the
 10 total available program job credits are allocated for a fiscal
 11 year, the department shall notify all community colleges that
 12 the maximum amount has been allocated and that further program
 13 job credits will not be available for the remainder of the
 14 fiscal year. Once program job credits have been allocated to
 15 a community college, the full allocation shall be received by
 16 the community college throughout the fiscal year and for the
 17 term of the agreement even if the statewide program job credit
 18 maximum amount is subsequently allocated and used.

19 DIVISION VII

20 MAXIMUM AMOUNT OF AGRICULTURAL ASSET TRANSFER TAX CREDITS

21 Sec. 10. Section 175.37, subsection 10, Code Supplement
 22 2009, is amended to read as follows:

23 10. The amount of tax credit certificates that may be issued
 24 pursuant to this section shall not exceed ~~six~~ two million
 25 dollars in any fiscal year. The authority shall issue the tax
 26 credit certificates on a first-come, first-served basis.

27 DIVISION VIII

28 ECONOMIC DEVELOPMENT REGION REVOLVING LOAN FUND TAX CREDIT

29 Sec. 11. Section 15E.231, subsection 2, Code Supplement
 30 2009, is amended by striking the subsection.

31 Sec. 12. Section 15E.232, subsections 1 and 2, Code 2009,
 32 are amended by striking the subsections.

33 Sec. 13. Section 422.33, subsection 17, Code Supplement
 34 2009, is amended by striking the subsection.

35 Sec. 14. Section 422.60, subsection 9, Code Supplement

1 2009, is amended by striking the subsection.

2 Sec. 15. Section 533.329, subsection 2, paragraph k, Code
3 Supplement 2009, is amended by striking the paragraph.

4 Sec. 16. REPEAL. Sections 422.11K and 432.12F, Code 2009,
5 are repealed.

6 Sec. 17. RETROACTIVE APPLICABILITY. This division of this
7 Act applies retroactively to January 1, 2010, for tax years
8 beginning on or after that date.

9 DIVISION IX

10 MAXIMUM AMOUNT OF ENDOW IOWA TAX CREDITS

11 Sec. 18. Section 15E.305, subsection 2, unnumbered
12 paragraph 1, Code Supplement 2009, is amended to read as
13 follows:

14 The aggregate amount of tax credits authorized pursuant to
15 this section shall not exceed a total of ~~three~~ two million
16 seven hundred thousand dollars plus such additional credit
17 amount as provided by this section annually. The maximum
18 amount of tax credits granted to a taxpayer shall not exceed
19 five percent of the aggregate amount of tax credits authorized.

20 DIVISION X

21 MAXIMUM AMOUNT OF SCHOOL TUITION ORGANIZATION TAX CREDITS

22 Sec. 19. Section 422.11S, subsection 7, paragraph a,
23 subparagraph (2), Code 2009, is amended to read as follows:

24 (2) "*Total approved tax credits*" means ~~for the tax year~~
25 ~~beginning in the 2006 calendar year, two million five hundred~~
26 ~~thousand dollars, for the tax year beginning in the 2007~~
27 ~~calendar year, five million dollars, and for tax years~~
28 ~~beginning on or after January 1, 2008, seven~~ 2011, six million
29 ~~five~~ seven hundred fifty thousand dollars.

30 DIVISION XI

31 VENTURE CAPITAL — IOWA FUND OF FUNDS

32 Sec. 20. Section 15E.66, subsections 1 and 7, Code 2009, are
33 amended to read as follows:

34 1. The board may issue certificates and related tax
35 credits to designated investors which, if redeemed for the

1 maximum possible amount, shall not exceed a total aggregate
2 of ~~one hundred~~ sixty million dollars of tax credits. The
3 certificates shall be issued contemporaneously with a
4 commitment to invest in the Iowa fund of funds by a designated
5 investor. A certificate issued by the board shall have a
6 specific maturity date or dates designated by the board and
7 shall be redeemable only in accordance with the contingencies
8 reflected on the certificate or incorporated therein by
9 reference. A certificate and the related tax credit shall be
10 transferable by the designated investor. A tax credit shall
11 not be claimed or redeemed except by a designated investor or
12 transferee in accordance with the terms of a certificate from
13 the board. A tax credit shall not be claimed for a tax year
14 that begins earlier than the maturity date or dates stated
15 on the certificate. An individual may claim the credit of a
16 partnership, limited liability company, S corporation, estate,
17 or trust electing to have the income taxed directly to the
18 individual. The amount claimed by the individual shall be
19 based upon the pro rata share of the individual's earnings from
20 the partnership, limited liability company, S corporation,
21 estate, or trust. Any tax credit in excess of the taxpayer's
22 tax liability for the tax year may be credited to the tax
23 liability for the following seven years, or until depleted,
24 whichever is earlier.

25 7. In determining the ~~one hundred million dollar~~ maximum
26 aggregate limit in subsection 1 and the ~~twenty million~~
27 ~~dollar~~ fiscal year limitation in subsection 5, the board shall
28 use the cumulative amount of scheduled aggregate returns on
29 certificates issued by the board to designated investors.
30 However, certificates and related tax credits which have
31 expired shall not be included and certificates and related tax
32 credits which have been redeemed shall be included only to the
33 extent of tax credits actually allowed.

34 Sec. 21. EFFECTIVE UPON ENACTMENT. This division of this
35 Act, being deemed of immediate importance, takes effect upon

1 enactment.

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DIVISION XII

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VENTURE CAPITAL — INVESTMENT TAX CREDIT

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Sec. 22. Section 422.33, subsection 13, Code Supplement
5 2009, is amended by striking the subsection.

6

Sec. 23. Section 422.60, subsection 6, Code Supplement
7 2009, is amended by striking the subsection.

8

Sec. 24. Section 533.329, subsection 2, paragraph i, Code
9 Supplement 2009, is amended by striking the paragraph.

10

Sec. 25. REPEAL. Sections 15E.51, 422.11G, and 432.12B,
11 Code 2009, are repealed.

12

Sec. 26. RETROACTIVE APPLICABILITY. This division of this
13 Act applies retroactively to January 1, 2010, for tax years
14 beginning on or after that date.

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DIVISION XIII

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REFUNDABLE INVESTMENT TAX CREDITS FOR VALUE-ADDED AGRICULTURAL
17 PRODUCTS

18

Sec. 27. Section 15.333, subsection 3, Code Supplement
19 2009, is amended by striking the subsection.

20

Sec. 28. RETROACTIVE APPLICABILITY. This division of this
21 Act applies retroactively to January 1, 2010, for tax years
22 beginning on or after that date.

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DIVISION XIV

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MAXIMUM AMOUNT OF HISTORIC TAX CREDITS

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Sec. 29. Section 404A.4, subsection 2, Code Supplement
26 2009, is amended by adding the following new paragraph:

27

NEW PARAGRAPH. *d.* For the fiscal year beginning July 1,
28 2012, and for each fiscal year thereafter, the department shall
29 reserve not more than forty-five million dollars worth of tax
30 credits for any one taxable year.

31

Sec. 30. Section 404A.4, subsection 4, paragraph a, Code
32 Supplement 2009, is amended to read as follows:

33

a. The total amount of tax credits that may be approved
34 for a fiscal year prior to the fiscal year beginning July
35 1, 2012, under this chapter shall not exceed fifty million

1 dollars. The total amount of tax credits that may be approved
2 for a fiscal year beginning on or after July 1, 2012, shall not
3 exceed forty-five million dollars.

4 DIVISION XV

5 ESTATE TAX REENACTED

6 Sec. 31. NEW SECTION. **451.1 Definitions.**

7 As used in this chapter, unless the context otherwise
8 requires:

9 1. "*Adjusted taxable estate*" means the taxable estate
10 computed for federal estate tax purposes reduced by sixty
11 thousand dollars.

12 2. "*Federal estate tax*" means the tax imposed by the
13 provisions of the Federal Estate Tax Act.

14 3. "*Federal Estate Tax Act*" and all such similar terms,
15 means Title III of chapter 27 of the Acts of the Sixty-ninth
16 Congress of the United States, first session, appearing in
17 44 Statutes at Large, chapter 27, as of January 1, 2000, as
18 amended.

19 4. "*Gross estate*" means the gross estate as determined under
20 section 451.3.

21 5. "*Internal Revenue Code*" means the Internal Revenue Code
22 as of the implementation date of this chapter, as specified in
23 section 451.13.

24 6. "*Iowa estate tax*" means the tax imposed by this chapter.

25 7. "*Month*" means a calendar month.

26 8. "*Net estate*" means the net estate as determined under the
27 provisions of section 451.3.

28 9. "*Personal representative*" means the executor of the will
29 or administrator of the estate of the decedent, or if there
30 is no such executor or administrator appointed, qualified and
31 acting, then any person in actual or constructive possession of
32 any property included in the gross estate of the decedent.

33 Sec. 32. NEW SECTION. **451.2 Additional tax.**

34 1. An amount equal to the federal estate tax credit for
35 state inheritance and estate taxes as allowed in the Internal

1 Revenue Code is imposed upon every transfer of the net estate
2 of every decedent being a resident of, or owning property in,
3 this state.

4 2. If the decedent is a resident of Iowa and all property
5 is located in Iowa, or is subject to the jurisdiction of the
6 courts of Iowa, an amount equal to the tax imposed under
7 subsection 1 shall be paid to the state of Iowa. If the
8 decedent is a nonresident or if property is located outside the
9 state of Iowa and not subject to jurisdiction of Iowa courts,
10 the tax shall be prorated on the basis that the Iowa property
11 bears to the total gross estate for federal tax purposes.

12 3. The total tax or the Iowa share of the total tax shall be
13 credited with the amount of any inheritance tax due the state
14 of Iowa as provided in chapter 450.

15 Sec. 33. NEW SECTION. **451.3 Gross and net estate.**

16 The gross estate shall be the same as finally determined for
17 federal estate tax and the net estate shall be the gross estate
18 less deductions as permitted by federal law, in arriving at the
19 net taxable federal estate, all determined as provided in the
20 Internal Revenue Code.

21 Sec. 34. NEW SECTION. **451.4 Tax on net estate.**

22 The tax imposed by this chapter shall be upon the transfer
23 of the total net estate of every decedent dying after the
24 implementation date of this chapter as provided in section
25 451.13.

26 Sec. 35. NEW SECTION. **451.5 Duty of personal**
27 **representative.**

28 The personal representative of a decedent whose estate may
29 be subject to the tax imposed by this chapter, shall file
30 in the office of the director of revenue, on or before the
31 last day of the ninth month after the death of the decedent,
32 duplicate copies of the estate tax return provided for in the
33 Federal Estate Tax Act, and in like manner, duplicate copies
34 of all supplemental or amended returns. The values of all
35 items included in the gross estate, as shown by those returns,

1 or supplemental or amended returns, shall be considered as
2 the values of those items for the purposes of this chapter.
3 In case of revaluation or correction of valuation of any of
4 those items, either by supplemental or amended returns, or
5 by the federal commissioner of internal revenue, or by an
6 appellate tribunal by which the value is finally determined,
7 the corrected values shall be considered as the values of those
8 items for the purposes of this chapter.

9 Sec. 36. NEW SECTION. **451.6 Payment of tax.**

10 The tax imposed by this chapter shall be paid by the personal
11 representative to the department of revenue on or before the
12 last day of the ninth month after the death of the decedent.

13 Sec. 37. NEW SECTION. **451.7 Disposal of tax.**

14 The proceeds of this tax shall be paid into the general fund
15 of the state.

16 Sec. 38. NEW SECTION. **451.8 Claim for credit or refund.**

17 If the personal representative of a resident decedent
18 shall have paid to the treasurer of the United States or
19 to a collector of internal revenue an estate tax under the
20 provisions of the Federal Estate Tax Act in respect of property
21 included in the gross estate, determined as herein provided,
22 and shall have claimed as credits or deductions against the
23 federal estate tax a sum less than the maximum credits or
24 deductions allowed by the provisions of the Federal Estate Tax
25 Act for any estate, inheritance, legacy or succession taxes
26 actually paid to any state or territory of the United States,
27 or to the District of Columbia, it shall be the personal
28 representative's duty, with due diligence, to file in the
29 bureau of internal revenue a claim for credit or refund for
30 such amount, if any, as such estate shall be properly entitled
31 to receive under the provisions of the Federal Estate Tax Act
32 and of this chapter.

33 Sec. 39. NEW SECTION. **451.9 Appeal.**

34 If any claim for refund or credit, or any part thereof,
35 shall be denied or disallowed by the commissioner of internal

1 revenue, the personal representative, the director of revenue,
2 or any person having an interest in said estate which may be
3 adversely affected by such denial or disallowance, may apply
4 to the judge of the court having jurisdiction of such estate,
5 for an order directing such personal representative to take,
6 perfect, and prosecute an appeal from the decision of the
7 commissioner of internal revenue to such court or tribunal as
8 may have jurisdiction of such matter, and, upon the granting
9 of such order, the director of revenue may assist in the
10 prosecution of such appeal. The judge of the court granting
11 such order may make a reasonable allowance for attorney fees
12 for the prosecution of such appeal, and direct the manner in
13 which the same, together with any other costs or expenses which
14 may be allowed by said court in connection therewith, shall be
15 paid.

16 Sec. 40. NEW SECTION. 451.10 Effect of allowance.

17 If any claim for credit or refund, or any part thereof, shall
18 be finally determined in favor of such personal representative,
19 any amount refunded or credited thereon shall inure to the
20 benefit of such estate.

21 Sec. 41. NEW SECTION. 451.11 Effect of disallowance.

22 If any claim for credit or refund or any part thereof,
23 shall be finally determined adversely to such personal
24 representative, for any reason other than lack of diligence or
25 other failure of duty on the personal representative's part,
26 the amount so denied or disallowed, or so much thereof as
27 shall have been paid to the department of revenue under the
28 provisions of this chapter, shall, upon a claim duly filed
29 with, and proper showing made to, the director of revenue,
30 be refunded by the department of revenue to such personal
31 representative, and shall inure to the benefit of such estate.

32 Sec. 42. NEW SECTION. 451.12 Applicable statutes
33 penalties.

34 All the provisions of chapter 450 with respect to the lien
35 provisions of section 450.7, and the determination, imposition,

1 payment, and collection of the tax imposed under that chapter,
 2 including penalty and interest upon delinquent taxes and the
 3 confidentiality of the tax return, are applicable to this
 4 chapter, except as they are in conflict with this chapter. The
 5 exceptions to the lien provisions found in section 450.7 do
 6 not apply to this chapter. The penalty provisions set out in
 7 section 450.53 shall apply to a person in possession of assets
 8 to be reported for purposes of taxation who willfully makes a
 9 false or fraudulent return or willfully fails to pay the tax,
 10 supply the information, make, sign, or file the required return
 11 within the time required by law or a person who willfully
 12 attempts in any manner to evade taxes imposed by this chapter
 13 or avoid payment of the tax. The director of revenue shall
 14 adopt rules necessary for the enforcement of this chapter.

15 Sec. 43. NEW SECTION. 451.13 Contingent implementation
 16 — applicability.

17 1. This chapter shall be implemented as of the date on
 18 which an amendment to the Internal Revenue Code providing for
 19 a credit against federal estate taxes owed for the amount of
 20 state inheritance and estate taxes paid, pursuant to chapter
 21 450 and this chapter, is applicable.

22 2. This chapter applies to the estates of persons dying on
 23 or after the implementation date specified in subsection 1.

24 CONFORMING AMENDMENTS

25 Sec. 44. Section 12.71, subsection 8, Code 2009, is amended
 26 to read as follows:

27 8. Bonds issued under the provisions of this section are
 28 declared to be issued for a general public and governmental
 29 purpose and all bonds issued under this section shall be exempt
 30 from taxation by the state of Iowa and the interest on the
 31 bonds shall be exempt from the state income tax and the state
 32 inheritance and estate tax.

33 Sec. 45. Section 12.80, subsection 3, Code 2009, is amended
 34 to read as follows:

35 3. Bonds issued under this section are declared to be

1 issued for an essential public and governmental purpose and all
2 bonds issued under this section shall be exempt from taxation
3 by the state of Iowa and the interest on the bonds shall be
4 exempt from the state income tax and the state inheritance and
5 estate tax.

6 Sec. 46. Section 12.81, subsection 8, Code 2009, is amended
7 to read as follows:

8 8. Bonds issued under the provisions of this section are
9 declared to be issued for a general public and governmental
10 purpose and all bonds issued under this section shall be exempt
11 from taxation by the state of Iowa and the interest on the
12 bonds shall be exempt from the state income tax and the state
13 inheritance and estate tax.

14 Sec. 47. Section 12.87, subsection 8, Code Supplement 2009,
15 is amended to read as follows:

16 8. Any bonds issued and sold under the provisions of this
17 section are declared to be issued and sold for an essential
18 public and governmental purpose, and all bonds issued and sold
19 under this section except as otherwise provided in any trust
20 indentures, resolutions, or other instruments authorizing their
21 issuance shall be exempt from taxation by the state of Iowa and
22 the interest on the bonds shall be exempt from the state income
23 tax and the state inheritance and estate tax.

24 Sec. 48. Section 12.90A, subsection 9, Code Supplement
25 2009, is amended to read as follows:

26 9. Annual appropriation bonds issued under this section are
27 declared to be issued for an essential public and governmental
28 purpose and all annual appropriation bonds issued under this
29 section shall be exempt from taxation by the state of Iowa
30 and the interest on the annual appropriation bonds shall be
31 exempt from the state income tax and the state inheritance and
32 estate tax.

33 Sec. 49. Section 12.91, subsection 9, Code 2009, is amended
34 to read as follows:

35 9. Bonds issued under the provisions of this section are

1 declared to be issued for a general public and governmental
2 purpose and all bonds issued under this section shall be exempt
3 from taxation by the state of Iowa and the interest on the
4 bonds shall be exempt from the state income tax and the state
5 inheritance and estate tax.

6 Sec. 50. Section 16.177, subsection 8, Code 2009, is amended
7 to read as follows:

8 8. Bonds issued under this section are declared to be
9 issued for an essential public and governmental purpose and all
10 bonds issued under this section shall be exempt from taxation
11 by the state of Iowa and the interest on the bonds shall be
12 exempt from the state income tax and the state inheritance and
13 estate tax.

14 Sec. 51. Section 321.47, subsection 2, Code 2009, is amended
15 to read as follows:

16 2. The persons entitled under the laws of descent and
17 distribution of an intestate's property to the possession
18 and ownership of a vehicle owned in whole or in part by a
19 decedent, upon filing an affidavit stating the name and date of
20 death of the decedent, the right to possession and ownership
21 of the persons filing the affidavit, and that there has been
22 no administration of the decedent's estate, which instrument
23 shall also contain an agreement to indemnify creditors of
24 the decedent who would be entitled to levy execution upon
25 the motor vehicle to the extent of the value of the motor
26 vehicle, are entitled upon fulfilling the other requirements of
27 this chapter, to the issuance of a registration card for the
28 interest of the decedent in the vehicle and a certificate of
29 title to it. If a decedent dies testate, and either the will is
30 not probated or is admitted to probate without administration,
31 the persons entitled to the possession and ownership of a
32 vehicle owned in whole or in part by the decedent may file
33 an affidavit and, upon fulfilling the other requirements of
34 this chapter, are entitled to the issuance of a registration
35 card for the interest of the decedent in the vehicle and a

1 certificate of title to the vehicle. The affidavit shall
2 contain the same information and indemnity agreement as is
3 required in cases of intestacy pursuant to this section. A
4 requirement of chapter 450 or 451 shall not be considered
5 satisfied by the filing of the affidavit provided for in this
6 section. If, from the records in the office of the county
7 treasurer, there appear to be any liens on the vehicle, the
8 certificate of title shall contain a statement of the liens
9 unless the application is accompanied by proper evidence of
10 their satisfaction or extinction. Evidence of extinction
11 may consist of, but is not limited to, an affidavit of the
12 applicant stating that a security interest was foreclosed as
13 provided in chapter 554, article 9, part 6.

14 Sec. 52. Section 421.60, subsection 2, paragraph c,
15 unnumbered paragraph 1, Code 2009, is amended to read as
16 follows:

17 If the notice of assessment or denial of a claim for refund
18 relates to a tax return filed pursuant to section 422.14 or
19 chapter 450 ~~or~~, 450A, or 451, by the taxpayer which designates
20 an individual as an authorized representative of the taxpayer
21 with respect to that return, or if a power of attorney has been
22 filed with the department by the taxpayer which designates an
23 individual as an authorized representative of the taxpayer with
24 respect to any tax that is included in the notice of assessment
25 or denial of a claim for refund, a copy of the notice together
26 with any additional information required to be sent to the
27 taxpayer shall be sent to the authorized representative as
28 well.

29 Sec. 53. Section 450.7, subsection 2, unnumbered paragraph
30 1, Code Supplement 2009, is amended to read as follows:

31 Notice of the lien is not required to be recorded. The
32 rights of the state under the lien have priority over all
33 subsequent mortgages, purchases, or judgment creditors; and a
34 conveyance after the decedent's death of the property subject
35 to a lien does not discharge the property except as otherwise

1 provided in this chapter. However, if additional tax is
2 determined to be owing under this chapter or chapter 451 after
3 the lien has been released under paragraph "a" or "b", the lien
4 does not have priority over subsequent mortgages, purchases,
5 or judgment creditors unless notice of the lien is recorded in
6 the office of the recorder of the county where the estate is
7 probated, or where the property is located if the estate has
8 not been administered. The department of revenue may release
9 the lien by filing in the office of the clerk of the court in
10 the county where the property is located, the decedent owner
11 died, or the estate is pending or was administered, one of the
12 following:

13 Sec. 54. Section 450.68, subsection 1, paragraph b, Code
14 Supplement 2009, is amended to read as follows:

15 b. Federal tax returns, copies of returns, return
16 information as defined in section 6103(b) of the Internal
17 Revenue Code, and state inheritance tax returns, which are
18 required to be filed with the department for the enforcement
19 of the inheritance and estate tax laws of this state, shall be
20 deemed and held as confidential by the department. However,
21 such returns or return information may be disclosed by the
22 director to officers or employees of other state agencies,
23 subject to the same confidentiality restrictions imposed on the
24 officers and employees of the department.

25 Sec. 55. Section 455G.6, subsection 14, Code Supplement
26 2009, is amended to read as follows:

27 14. Bonds issued under the provisions of this section are
28 declared to be issued for an essential public and governmental
29 purpose and all bonds issued under this chapter shall be exempt
30 from taxation by the state of Iowa and the interest on the
31 bonds shall be exempt from the state income tax and the state
32 inheritance and estate tax.

33 Sec. 56. Section 463C.12, subsection 8, Code 2009, is
34 amended to read as follows:

35 8. Tax-exempt bonds issued by the authority in connection

1 with the program, which are exempt from taxation for federal
2 tax purposes, are also exempt from taxation by the state of
3 Iowa and the interest on these bonds is exempt from state
4 income taxes and state inheritance and estate taxes.

5 Sec. 57. Section 524.1406, subsection 3, paragraph a, Code
6 2009, is amended to read as follows:

7 a. Notwithstanding any contrary provision in chapter
8 490, division XIII, in determining the fair value of the
9 shareholder's shares of a bank organized under this chapter
10 or a bank holding company as defined in section 524.1801 in a
11 transaction or event in which the shareholder is entitled to
12 appraisal rights, due consideration shall be given to valuation
13 factors recognized for federal and estate tax purposes,
14 including discounts for minority interests and discounts
15 for lack of marketability. However, any payment made to
16 shareholders under section 490.1324 shall be in an amount not
17 less than the stockholders' equity in the bank disclosed in its
18 last statement of condition filed under section 524.220 or the
19 total equity capital of the bank holding company disclosed in
20 the most recent report filed by the bank holding company with
21 the board of governors of the federal reserve system, divided
22 by the number of shares outstanding.

23 Sec. 58. Section 633.436, subsection 1, unnumbered
24 paragraph 1, Code 2009, is amended to read as follows:

25 Except as provided in sections 633.211 and 633.212, shares
26 of the distributees shall abate, for the payment of debts and
27 charges, federal and state estate taxes, legacies, the shares
28 of children born or adopted after the making of a will, or the
29 share of the surviving spouse who elects to take against the
30 will, without any preference or priority as between real and
31 personal property, in the following order:

32 Sec. 59. Section 633.449, Code 2009, is amended to read as
33 follows:

34 **633.449 Payment of federal estate taxes.**

35 All federal estate taxes, distinguished from state

1 inheritance and estate taxes, owing by the estate of a decedent
2 shall be paid from the property of the estate, unless the will
3 of the decedent, or other trust instrument, provides expressly
4 to the contrary.

5 Sec. 60. Section 633A.4703, unnumbered paragraph 1, Code
6 2009, is amended to read as follows:

7 Except as otherwise provided by the governing instrument,
8 where necessary to abate shares of the beneficiaries of a trust
9 for the payment of debts and charges, federal and state estate
10 taxes, bequests, the share of the surviving spouse who takes
11 an elective share, and the shares of children born or adopted
12 after the execution of the trust, abatement shall occur in the
13 following order:

14 DIVISION XVI

15 ENTERPRISE ZONES INTERIM STUDY COMMITTEE

16 Sec. 61. ENTERPRISE ZONES INTERIM STUDY COMMITTEE.

17 1. The legislative council is requested to establish an
18 interim study committee to evaluate the effectiveness of Iowa's
19 enterprise zone program and make recommendations on the future
20 of the program. In conducting the study, the committee shall
21 review the original policy goals of the program, the amount of
22 state assistance provided under the program, and the benefits
23 realized by the state through the administration of the
24 program, and shall reach a conclusion as to whether the amount
25 of assistance provided has been in proportion to the benefits
26 realized.

27 2. The committee shall be composed of ten members of the
28 general assembly. Five members shall be members of the senate,
29 three of whom shall be appointed by the majority leader of the
30 senate, and two of whom shall be appointed by the minority
31 leader of the senate. Five members shall be members of the
32 house of representatives, three of whom shall be appointed
33 by the speaker of the house of representatives, and two of
34 whom shall be appointed by the minority leader of the house of
35 representatives.

1 3. The study committee shall issue a report to the general
2 assembly containing its findings and recommendations by January
3 15, 2011.

4 DIVISION XVII

5 INDUSTRIAL NEW JOBS TRAINING INTERIM STUDY COMMITTEE

6 Sec. 62. INDUSTRIAL NEW JOBS TRAINING INTERIM STUDY
7 COMMITTEE.

8 1. The legislative council is requested to establish an
9 interim study committee to evaluate the effectiveness of Iowa's
10 industrial new jobs training program and make recommendations
11 on the future of the program. In conducting the study,
12 the committee shall review the original policy goals of the
13 program, the amount of state assistance provided under the
14 program, and the benefits realized by the state through the
15 administration of the program, and shall reach a conclusion
16 as to whether the amount of assistance provided has been in
17 proportion to the benefits realized. The review shall also
18 include an examination of the efficiency of the bonding and
19 withholding credit financing mechanisms used in the programs
20 as well as the administrative and training costs entailed in
21 the operation of the program.

22 2. The committee shall be composed of ten members of the
23 general assembly. Five members shall be members of the senate,
24 three of whom shall be appointed by the majority leader of the
25 senate, and two of whom shall be appointed by the minority
26 leader of the senate. Five members shall be members of the
27 house of representatives, three of whom shall be appointed
28 by the speaker of the house of representatives, and two of
29 whom shall be appointed by the minority leader of the house of
30 representatives.

31 3. The study committee shall issue a report to the general
32 assembly containing its findings and recommendations by January
33 15, 2011.

34 EXPLANATION

35 This bill relates to the administration and review of

1 certain tax credit, withholding credit, division of revenue,
2 and other financial assistance programs.

3 Division I of the bill expresses the intent and purposes of
4 the bill.

5 Division II of the bill creates a legislative tax
6 expenditure committee within the legislative council. The
7 committee is composed of 10 members of the general assembly,
8 five members from each house, appointed by the legislative
9 council.

10 The committee has a number of duties. The committee is
11 required to issue a statement of principles of sound tax
12 policy. In issuing the statement, the committee may consult
13 with the department of revenue, the legislative services
14 agency, and independent experts who have demonstrated expertise
15 in matters of tax policy, fiscal policy, and public finance.
16 The statement must reflect to the extent practicable the best
17 practices of state and local taxation as recognized by experts
18 in the fields of economics, fiscal policy, law, accounting, and
19 public finance. The statement must address issues of equity,
20 simplicity, competitiveness, public purpose, and adequacy as
21 those issues pertain to taxation in Iowa.

22 The committee shall evaluate any tax expenditure available
23 under Iowa law and assess its conformance with the statement of
24 principles of sound tax policy. "Tax expenditure" is defined
25 to mean an exclusion from the operation or collection of a tax
26 imposed in this state. Tax expenditures include tax credits,
27 exemptions, deductions, and rebates. Tax expenditures also
28 include sales tax refunds issued pursuant to Code section 423.3
29 or Code section 423.4.

30 The committee shall establish and maintain a system for
31 making available to the public information about the amount and
32 effectiveness of tax expenditures and the extent to which tax
33 expenditures comply with the statement of principles of sound
34 tax policy.

35 The committee must engage in the regular review of the

1 state's tax expenditures. In reviewing tax expenditures, the
2 committee may review any tax expenditure at any time, but shall
3 at a minimum perform certain reviews according to a schedule
4 prescribed by statute. For each tax expenditure reviewed,
5 the committee must submit a report to the legislative council
6 containing the results of the review. The report must contain
7 a statement of the policy goals of the tax expenditure and
8 a return on investment calculation for the tax expenditure.
9 "Return on investment calculation" is defined to mean analyzing
10 the cost to the state of providing the tax expenditure,
11 analyzing the benefits realized by the state from providing
12 the tax expenditure, and reaching a conclusion as to whether
13 the benefits of the tax expenditure are worth the cost to the
14 state of providing it. The committee's report may also include
15 recommendations for better aligning tax expenditures with
16 principles of sound tax policy.

17 The committee must also estimate for each fiscal year,
18 in conjunction with the legislative services agency and
19 the department of revenue, the cost of each individual tax
20 expenditure and the total cost of all tax expenditures, and by
21 December 15 provide those estimates to the governor for use
22 in the preparation of the budget message under Code section
23 8.22 and to the general assembly to be used in the budget
24 process. The estimates provided may include the committee's
25 recommendations for the imposition of a limitation on a
26 specified tax expenditure, a limitation on the total amount of
27 tax expenditures, or any other recommendation for a specific
28 tax expenditure or the program under which the tax expenditure
29 is provided.

30 Division III of the bill reduces the amount of tax credits
31 that the department of economic development is allowed to
32 authorize for certain programs each year from \$185 million to
33 \$120 million, except as otherwise provided in the division.

34 Division IV of the bill prevents the department of economic
35 development from registering any new projects under the film,

1 television, and video project promotion program until July 1,
2 2012. The division takes effect upon enactment.

3 Division V modifies the amount of the additional research
4 activities credit in Code section 15.335. Currently, the
5 amount of the credit is 6.5 percent of research expenditures.
6 The division provides that for businesses with annual gross
7 revenues less than \$20 million, the credit amount is 10
8 percent. For businesses with annual gross revenues greater
9 than \$20 million, the amount of the credit is 3 percent.
10 Division V applies retroactively to January 1, 2010, for tax
11 years beginning on or after that date.

12 Division VI of the bill reduces the maximum amount of
13 statewide program job credits that may be allocated to
14 community colleges under the accelerated career education
15 program in any one fiscal year to \$5.4 million. The maximum
16 amount is currently \$6 million.

17 Division VII of the bill reduces the maximum amount of
18 agricultural asset transfer tax credits that may be issued
19 in any one fiscal year to \$2 million. The maximum amount is
20 currently \$6 million.

21 Division VIII of the bill eliminates the economic
22 development region revolving loan fund tax credit program. The
23 division applies retroactively to January 1, 2010, for tax
24 years beginning on or after that date.

25 Division IX of the bill reduces the maximum amount of tax
26 credits that may be issued under the Endow Iowa program to \$2.7
27 million. The maximum amount is currently \$3 million.

28 Division X of the bill reduces the maximum amount of school
29 tuition organization tax credits that may be issued to \$6.75
30 million. The maximum amount is currently \$7.5 million.

31 Division XI reduces the maximum aggregate amount of tax
32 credits that may be issued under the Iowa fund of funds program
33 to \$60 million. Currently, \$100 million may be issued under
34 the program. The division takes effect upon enactment.

35 Division XII eliminates the venture capital fund investment

1 tax credit and makes conforming amendments. The division
2 applies retroactively to January 1, 2010, for tax years
3 beginning on or after that date.

4 Division XIII of the bill eliminates the refundability
5 of certain tax credits for value-added agricultural products
6 available under the investment tax credit in Code section
7 15.333. The division applies retroactively to January 1, 2010,
8 for tax years beginning on or after that date.

9 Division XIV of the bill reduces the amount of historic
10 preservation and cultural and entertainment district tax
11 credits that can be reserved under Code chapter 404A from \$50
12 million per year to \$45 million. The reductions only impact
13 years in which the department has not yet approved projects
14 under the program.

15 Division XV of the bill relates to estate taxes. In
16 2001, Congress enacted the Economic Growth and Tax Relief
17 Reconciliation Act (EGTRRA) which reduced the federal estate
18 tax rates and increased the exemption level for estates for tax
19 years 2002 through 2009. In 2010, EGTRRA repeals the federal
20 estate tax completely. EGTRRA also phased out the tax credits
21 for state inheritance and estate taxes in 25 percent increments
22 between 2002 and 2005. Until 2008, Iowa had an estate tax,
23 the base and the amount of which were calculated based on the
24 federal tax credits phased out in EGTRRA. This type of tax was
25 referred to as a "pick-up tax". In 2008, Iowa's estate tax was
26 eliminated. This bill reenacts the estate tax, including the
27 base and amount calculations specified in the Internal Revenue
28 Code. The Code chapter reenacting the estate tax shall not be
29 implemented unless the federal tax credits are reenacted as
30 well.

31 Division XVI of the bill requests the legislative council
32 to establish an interim study committee to evaluate and make
33 recommendations regarding the enterprise zone program.

34 Division XVII of the bill requests the legislative council
35 to establish an interim study committee to evaluate and make

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1 recommendations regarding the industrial new jobs training
2 program.